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**MISCELLANY.**

**Kangaroo Courts.**—A Kangaroo Court in one set up by the inmates of a prison to try violators of the Code of rules framed by the prisoners. As was said by Holcomb, C. J., dissenting in *Eberhart v. Murphy* (Wash.), 188 Pac. 17, 22:

"The kangaroo courts are recognized as of beneficial use in the discipline and sanitation of the prisoners in the jails and prisons and are the practical system which has grown up and become general throughout the country."

The rules of the kangaroo court in the jail at Ellensburg, Wash., are as follows:

- "(1) The court must have a sheriff, judge and prosecuting attorney.
- "(2) Every person entering this jail is guilty of a misdemeanor and upon conviction is subject to a fine, of not more than two dollars (\$2.00).
- "(3) Every cell must be swept and mopped at least once a day.
- "(4) All dishes must be washed after each meal.
- "(5) Each and every one excepting the 'Mucker' must stay in cells during dishing up of meals.
- "(6) The judge can call court whenever he sees fit.
- "(7) The use of the toilet is prohibited during meals.
- "(8) The throwing of scraps on the floor is strictly against the rules.
- "(9) No profane language is allowed during meals.
- "(10) Each person must take a bath at least once a week.
- "(11) No loud talking after nine o'clock.
- "(12) Each and every one must keep their cells clean and free from vermin.
- "(13) Re Rule No. 2. All fines to be paid into treasury of Kangaroo Court.
- "(14) The jailor will be treasurer of said court.
- "(15) The monies paid into said treasury can be checked against by judge for tobacco, etc., to be distributed among all prisoners. The above rules to be strictly enforced by the judge. \* \* \*
- "(16) Each and every inmate must take a bath immediately after entering said jail.
- "(17) No spitting in sink at any time."

The above rules are set out in the opinion in *Riggs v. German*, 81 Wash. 128, 142 Pac. 479, which was an action against a sheriff by a prisoner who had been mistreated by his fellow prisoners in carrying out the judgment of the kangaroo court rendered against the plaintiff for failing to pay the fine assessed against him under the authority of rule 2. In this case it was held that the sheriff was not liable as the evidence did not show that he had any reason to anticipate plain-

tiff's maltreatment, which required extra precautions that were not taken. The court said in part:

"We think the testimony is wholly insufficient to show that the defendant had knowledge or good reason to believe that the prisoners contemplated an assault upon the plaintiff and that, having such knowledge, he took no steps to prevent it. He would not therefore be liable under the rule announced in the case of *Hixon v. Cupp*, 5 Okl. 545, 49 Pac. 927, a kangaroo court case where the sheriff was held liable; there being testimony 'adduced to the jury to show that the sheriff knew that it was the custom of the prisoners confined in the jail under his charge to assault and beat prisoners brought to such jail, after pretended or mock trials, and that he failed to use such means as were at his command to prevent such acts.'

"A sheriff should not be required, in the exercise of ordinary care, to maintain himself or a deputy in the presence and company of his prisoners, unless the circumstances, as developed by the testimony, are such that it can be said that the sheriff had reasonable ground to apprehend the danger. We take it from the record that Kangaroo courts have come to be established institutions and are encouraged by sheriffs and jailers. Their rules, if the rules we have quoted are consistent with the rules of Kangaroo courts generally, indicate that their work is in aid of the work of a sheriff, whose duty it is to maintain a fit and suitable place to confine his prisoners and to protect the ones inclined to cleanliness and decency from those who are not."

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**Larceny by Inducing Finder Not to Return Lost Property.**—Ford and his wife were working as tenants on a place rented by defendant, Sheffield, from Sutton. Ford's wife found a pocketbook containing \$85 which Sutton had lost, and which the Fords knew belonged to him. Ford started to return the property to Sutton, when the defendant met him, and, upon being acquainted with the facts by Ford, persuaded him to keep the pocketbook, and to let defendant have \$40, upon his promise that he would protect Ford and would later return the \$40 with 10 per cent. interest. Defendant, however, never returned this money either to Ford or Sutton. Ford kept and used the balance of the money. This evidence the Court of Appeals of Georgia, in *Sheffield v. State*, 105 Southeastern Reporter, 376, in an opinion by Judge Luke, held to be sufficient to sustain a verdict of simple larceny.

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**The Voice and Smell that Will Not Still.**—In *Boyd v. Sierra Madre*, 183 Pac. 230, in the District Court of Appeal of California, the court refers to the vocal gifts and odors of certain humble and faithful servitors of man as follows:

"A municipality has power, by ordinance, to divide its territorial limits into business and residence districts, and prohibit in the residence district the maintenance of any corral wherein mules and burros

are kept for hire. It is a matter of common knowledge that such corrals are not only rife with offensive, foul-smelling odors, but are breeding places for germladen, disease-bearing flies and pestilential vermin. Not only this, but we know of no Heaven-sent Maxim to invent a silencer for this brute, that one beholding him, neck outstretched and jaws distended wide, could persuade himself that he but heard from the depths of the beast's crimson-coated cavern

' \* \* \* a sound so fine there's nothing lives

Twixt it and silence.'

"We fear that, until nature evolves the whispering burro or man invents some harmless but effective mule-muffler, we shall oft 'in the dead and vast middle of the night,' even in such corrals as appellants, kept 'in a cleanly, wholesome, and sanitary manner,' hear the loud, discordant bray of this sociable but shrill-toned friend of man, filling the air 'with barbarous dissonance,' and drowning even that shout that

' \* \* \* tore Hell's concave, and beyond

Frighted the reign of Chaos and old Night.'"

It should not be a matter of surprise therefore, that the noisome smell and their loud, strident cacophonies bring the keeping of them in a populous place within the legal motion of a nuisance, as was held in the above case.

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**How Virginia Laws Discriminate Against Women.**—Virginia's Laws, like those of nearly all the other states, are based upon the old English "common law." All women were, according to the common law, legally inferior to men, and during marriage a woman lost her legal identity. The married woman's property, her labor, and her children, belonged to her husband. The common law has been modified in many respects. But Virginia has never specifically repudiated the common-law doctrine of woman's inferiority. It still prevails in all cases in which a special law has not been passed to the contrary. The following digest of the laws of Virginia are taken from a pamphlet issued by the National Woman's Party:

#### **Discriminations Against Women as Mothers.**

The common-law rule that the father is the natural guardian of his minor legitimate children and has the first right to their custody, services, earnings and control is in force today in Virginia.<sup>1</sup> As late as 1919 a Virginia judge stated: "Our law fully recognizes the primary right of the father to the custody of the child." This is one of the most barbaric laws on the statute books of the state.

In 1916 an equal guardianship law was passed by the legislature.<sup>2</sup> This law was repealed through the action of the three men who drew up the 1919 Virginia Code, who in revising the code revised the equal guardianship law out of existence.<sup>3</sup> The legislature upheld their action.

According to Virginia law, therefore, the rights of the father over his legitimate children are in every way superior to those of the mother. He alone controls the children's upbringing, may decide their religion, their education, when they shall go to work, what work they shall do. He alone owns their services and their earnings. In case of divorce the presumption is in favor of their being given to the father and not to the mother.<sup>4</sup>

A careful review of the court cases shows that almost the only instances where the mother was allowed to have her children are those when it would have been actually dangerous, physically and morally, to permit the children to remain with the father.<sup>5</sup>

In addition to his superior legal right, the father has an added advantage because he has either property or wages of his own. The young mother rarely has money of her own, and the court usually considers it "for the welfare of the child" to be with the better-off parent.<sup>6</sup> So the law which says to the young wife: "You owe your husband and family your services as a housekeeper, wife and mother, and for these you must ask no money return," says to the mother: "You have no money; therefore you cannot keep your children unless you remain with your husband."

Thus the alternative which Virginia courts place before many mothers is return to the husband who mistreats them or loss of their children.

For instance: A Mrs. X and her husband were living separately because he made her life disagreeable. He was jealous, he kicked her, quarreled with her, and came home at night talking about shooting someone. The husband did not deny his wife's charges. The fitness of the wife to have the care of their two children, one only three months old and the other two years old, was never questioned, but the court decided that these babies should go to the father because of his paramount right to his children and because he had a little property, while the young mother had none.<sup>7</sup>

What a Virginia judge thought of this state of affairs might well be quoted here, from his dissenting opinion to a famous court decision of 1878<sup>8</sup> in favor of the father. His comment applies today:

"It is to say to her: The courts can give you no relief; you belong to your husband; you must submit to his exactions, however cruel and injurious to your health. You are his slave. \* \* \* Or you must surrender the child you have borne, though you feel it is a part of

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<sup>1</sup> 116 Va. 476; 96 Va. 165; 17 Grat. 503.

<sup>2</sup> Ch. 417, Acts of Assembly, 1916.

<sup>3</sup> Code, p. 2284.

<sup>4</sup> 116 Va. 476.

<sup>5</sup> 97 Va. 217; 90 Va. 271.

<sup>6</sup> 90 Va. 845; 103 Va. 750; 30 Grat. 307.

<sup>7</sup> 103 Va. 750.

<sup>8</sup> 30 Grat. 307.

yourself; though you brought it into life and being in anguish and travail. \* \* \* and nursed it in sickness and in health, through day and sleepless nights. \* \* \* Such is the cruel alternative. \* \* \* Even brute beasts are allowed to have their offspring with them. The moral sentiment of the world looked with abhorrence on the separation of a female slave who was a mother from her offspring of tender years. It was not done when slavery was sanctioned by law, though the master had the power; and when it was done, the mind of every man and woman of moral sensibility in the community where it occurred revolted and condemned it. But to tear from the bosom of a young, ardent, refined, highly cultivated, amiable, devoted mother, eminently qualified, morally and mentally for rearing it, in defiance of her cries and entreaties, the infant child that she has borne, and to consign it to the rearing and training of the mother or sisters of the father, or any other person, is a barbarity and refinement of cruelty. \* \* \*

The father has a property right in the labor and earning of his children. The mother has no such right, unless the father is dead or a deserter. The father alone, therefore, may sue for damages for a wrongful injury to his child, the theory being that such an injury deprives him of his child's services, which are his property. If damages are awarded they go to the father to be disposed of as he wishes.<sup>9</sup>

In the same way, only the father may sue for the seduction of his daughter. The law considers the relation that of master and servant.

In his last will and testament a father can appoint a guardian for the estate of a child born or to be born. A mother can appoint such a guardian only if none has been appointed by the father.<sup>10</sup>

A widowed mother, if fit for the trust, is entitled to the custody of a minor child and to the care of its education, but only so long as she remains unmarried.<sup>11</sup> A father does not forfeit his rights as custodian of his minor children by remarriage.

In spite of the fact that the mother does not own her services and does not control the services or earnings of her children, she, as well as the father, is liable to criminal prosecution if the children are neglected and may be fined and imprisoned for failure to "provide."<sup>12</sup>

The father of an illegitimate child, responsible equally with the mother for the birth of the child, has no legal responsibility for its care and support. The mother must bear alone society's disapproval and the legal obligation to educate, support and take care of the child.<sup>13</sup>

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<sup>9</sup> Sec. 5320; 108 Va. 575; 13 Grat. 726; 20 R. C. L. pp. 614, 632.

<sup>10</sup> Sec. 5314.

<sup>11</sup> Sec. 5320.

<sup>12</sup> Ch. 416, Acts of Assembly, 1918.

<sup>13</sup> 3 R. C. L. p. 750.

There is no law in Virginia by which the unmarried mother may demand aid from the father of her child for its support.

### **Discriminations Against Women as Wives.**

The husband may secure divorce for causes to which no corresponding cause exists for the wife. If the wife was pregnant at the time of the marriage by another person and the husband did not know of it he is entitled to divorce.<sup>14</sup> The fact that the husband was responsible for the pregnancy of another woman at the time of his marriage does not entitle his wife to a divorce.

By Virginia law "the husband is the head of the family \* \* \* and as such he should be obeyed and respected." He alone may select the family residence and say "of whom the family circle may consist."<sup>15</sup> The wife has no other domicile than that of her husband for business, taxing, voting or other purposes. Should the husband retain his legal residence in a place distant from the family home the wife must travel to that place to vote or else be disfranchised.

The labor of the wife in the home belongs to her husband. She is not entitled to any payment for these services beyond her mere "board and keep."<sup>16</sup> The wife has no right to her husband's services.

### **Discriminations Against Women in Property Rights.**

Male relatives are generally preferred in inheritance where there is no will—that is, the father to the mother, the grandfather to the grandmother, "and so on without end, passing to the nearest lineal male ancestors and from them to the nearest lineal female ancestors."<sup>17</sup>

The father is preferred to the mother. If a son or daughter of age dies without a will, having no children, the father inherits the property. The mother is entitled to none, unless the father is dead, and then she receives only a share of the inheritance.<sup>18</sup>

The real property of a child under age descends as does that of an adult, preferably to male relatives, unless the property comes from one of its parents.<sup>19</sup> If the property was the gift of the mother it would return to her relatives.<sup>20</sup> But if it came from the mother's father or any other member of her family, the regular rule of inheritance would prevail and the property go to the child's father or his kindred

For instance: A child of seven died, owning property which had been a gift to her from her grandfather on her mother's side. The ques-

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<sup>14</sup> Sec. 5103.

<sup>15</sup> 118 Va. 198; 93 Va. 68; 125 Va. 643.

<sup>16</sup> 85 Va. 353, 24 S. E. 388.

<sup>17</sup> Sec. 5264.

<sup>18</sup> Sec. 5264, 20 S. E. 936.

<sup>19</sup> Sec. 5272.

<sup>20</sup> 23 Grat. 444.

tion arose as to whether the child's property should go to relatives on her mother's side (since it came from them) or to relatives on the father's side. The court decided that since the property had not come from the child's mother, but from the mother's father, that it must take the usual order of inheritance and go to the father.<sup>21</sup> This would be the case even if the parents were separated and the chief support of the family devolved upon the mother.

The husband's rights are greater than the wife's in the inheritance of real estate. Common-law dower and curtesy rights prevail. A wife is entitled to a life interest in one-third of her deceased husband's lands.<sup>22</sup> The husband (provided a child has been born alive) is entitled to a life interest in all of his wife's lands.<sup>23</sup> If no child has been born he is entitled to no part of the real estate.

Although Virginia now has a married woman's property act permitting married women to hold property in their own right, Virginia courts still assume, in the absence of direct proof to the contrary, that a wife's property belongs to her husband. In order to establish her ownership the wife must go into court and prove legally that the actual money used in purchasing the property was given her or earned by her.<sup>24</sup>

For instance: The creditors of Mr. X secured an execution against his goods and chattels, which they had levied on a stock of goods in the city of Staunton. This stock of goods was used in a business belonging to X's wife and conducted by her in person. The law presumed this property, although held by Mrs. X, to belong to her husband and allowed his creditors to seize it and thus to put her out of business.<sup>24</sup>

Just the opposite is the case with the husband. The law takes it for granted that the husband's property, as well as the wife's, is the husband's alone.<sup>25</sup>

Married women are also frequently discriminated against in the matter of exemption granted to householders on their homesteads. Such an exemption is granted the man householder without question, but it is difficult for a woman, even though she may be supporting her husband and family, to establish her right to exemption, because of the reluctance of the courts to consider a married woman the head of a family.<sup>26</sup>

#### Other Discriminations Against Women.

Jury service is limited to "male citizens."<sup>27</sup>

Letters of administration are granted on the basis of inheritance

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<sup>21</sup> 124 Va. 28.

<sup>22</sup> Sec. 5117.

<sup>23</sup> Sec. 5134.

<sup>24</sup> 119 Va. 593; 96 Va. 624.

<sup>25</sup> 86 Va. 117.

<sup>26</sup> 99 Va. 582; 104 Fed. 873.

<sup>27</sup> Secs. 5984, 4927.



of personal estate, and since inheritance is usually through the male line, women are to a large extent excluded as administrators and executors.<sup>28</sup> If a woman administrator or executor marries, the court may revoke her powers, and appoint another, administrator.<sup>29</sup> Marriage has no effect on a man's power to act as administrator or executor.

During this past year women have been allowed for the first time to enter the University of Virginia, but they are not yet permitted to compete on equal terms with their men associates. Boys may enter the university at sixteen years; girls must be twenty years old before they may enter. Entrance requirements are much higher for women than for men.<sup>30</sup>

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**Proposed Statute Giving Women Same Rights, etc., as Men.**—The National Woman's Party is circulating the following proposed blanket bill for introduction in the state legislatures:

Section 1. Women shall have the same rights, privileges and immunities under the law as men, with respect to the exercise of suffrage; holding of office or any position under the government, either state or local or for which government funds or subsidies are used, and with respect to remuneration for services in such office or position; eligibility to examination for any position affected by civil service regulations; jury service; choice of domicile, residence and name; acquiring, inheriting, controlling, holding and conveying property; ownership and control of labor, services and earnings within and without the home, and power to recover damages for loss of such labor, services and earnings; freedom of contract, including becoming a party in any capacity to negotiable instruments or evidence of indebtedness, or becoming surety or guarantor; becoming parties litigant; acting as executors or administrators of estates of decedents; custody and control of children, and control of earnings and services of such children; grounds for divorce; immunities or penalties for sex offenses; quarantine, examination and treatment of disease; and in all other respects.

Sec. 2. No disabilities or inequalities on account of marriage shall exist unless they apply to both sexes.

Sec. 3. This article shall be construed as abrogating in every respect the Common Law disabilities of women.

Sec. 4. This act shall not affect laws regulating the employment of women in industry.

Sec. 5. All acts and parts of acts in conflict with any of the provisions of this statute are hereby repealed.

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<sup>28</sup> Sec. 5360.

<sup>29</sup> Sec. 5373.

<sup>30</sup> U. of Va. Rec., pp. 82, 197, 198,